

VI WORKFORCE DEVELOPMENT BOARD POLICY DOCUMENT

Workforce System Guidance WIOA xxx-xx

TO: WIOA Grant Recipients; Administrative Entities; One-Stop Partners; Virgin Islands Department of Labor (VIDOL)

SUBJECT: WIOA Eligible Training Providers List Policy

DATE: TBA

References:

- WIOA Title I sec. 116 & sec. 122.
- ETA Training and Employment Guidance Letter (TEGL) No.8-19; and
- 20 CFR Part 680 §680.400 §680.510.
- Executive Order No. 490-2019 (Office of the Governor)

Purpose: To establish general guidance on providing training services under the Workforce Innovation and Opportunity Act of 2014 (WIOA) as amended.

Background: The Virgin Islands State Workforce Development Board's Eligible Training Provider List (ETPL) identifies training providers who qualify to receive WIOA funds to train adults, dislocated workers, and out-of-school youth. The State's ETPL and related eligibility procedures ensure the accountability, quality, and labor-market relevance of programs of training services that receive funds through WIOA. WIOA sets forth the responsibilities of the Governor and the designated state entity to create and maintain a list of eligible training providers.

Executive Order No. 490-2019 established the Virgin Islands State Workforce Development Board under the Office of the Governor as a policy-making entity charged with strengthening the Workforce Development System. Previous Executive Orders 438-2008 and 488-2019, which both referenced the Workforce Development Board, were rescinded.

Pursuant to 20 CFR 680, Executive Order 490-2019, provides that the SWDB shall assume and fulfill all the rights and duties as outlined in WIOA. The EO 490-2019, specifically provides that SWDB, in its designation as the Single State local area, shall perform the duties of the local board as described in the WIOA and have all other authority and responsibilities as specifically outlined in the Order.

Policy: The WIOA Eligible Training Provider List Policy is as follows:

A. What is the ETPL?

a. Purpose and Mission

The Eligible Training Provider List (ETPL) was established in compliance with the Workforce Investment Act (WIA) of 1998 and amended by the Workforce Innovation and Opportunity Act (WIOA) of 2014 to provide quality training choices for a growing workforce.

b. How is the list used?

Eligible WIOA title 1-B participants in need of training services to enhance their job readiness or career pathway are referred to the ETPL by a case manager at an American Job Center (AJC) and may access career training through a list of state-approved training provider programs, including Registered Apprenticeship programs.

c. How are ETPL training services funded?

WIOA provides funding for various types of training. The ETPL is funded through Individual Training Accounts (ITAs). ITAs are one training option available to eligible and appropriate participants when it is determined by a case manager in the American Job Center, where services are provided by Equus Workforce Solutions. An ITA is limited in cost and duration and results in employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment.

ITAs are allowed for out-of-school youth ages 18-24 (out-of-school youth ages 16-17 are not eligible for ITAs) per WIOA Section 129(c)(2)(D) and 20 CFR 681.550. ITAs are not entitlements and shall be provided to eligible participants based on an individualized assessment of the person's job readiness, employment and training needs, financial, social, and supportive needs, labor market demand, and potential for successful completion, as documented on the participant's Individual Employment Plan (IEP). Participants choose career training with Eligible Training Providers in consultation with case managers.

ITA funding for training is limited to participants who:

- Complete an assessment and an IEP that identifies the selected training course.
- Are unable to obtain grant assistance from other sources to pay the costs of training or require assistance beyond available grant resources from other sources, such as Pell Grants to complete their training goals;
- Select training programs that are directly linked to an in-demand industry sector or occupation or sectors that have a high potential of sustained demand or growth in the local area or in another area in which the participant is willing to travel or relocate [WIOA Section 134(c)(3)(G)(iii)]; and
- Maintain satisfactory progress/grades throughout the training program.

Other WIOA Training Options Exempt from the ETPL Policy:

Not all allowable types of training services are subject to the requirements of the eligible training provider provisions in WIOA title I-B. Training services exempt from the Section 122 (ETPL) eligibility requirements include:

- On-the-job training; customized training; incumbent worker training; transitional paid or unpaid employment or work experiences; or
- The circumstances described in WIOA sec.134(c)(3)(G)(ii), training services authorized according to a contract in lieu of an individual training account where the SWDB determines that:
 - There are insufficient providers, or
 - There is a training services program with demonstrated effectiveness offered in the local area by a community-based organization or other private organization to serve individuals with barriers to employment, or
 - It would be most appropriate to award a contract to an institution of higher education or another eligible provider of training services to facilitate the training of multiple individuals in in-demand industry sectors or occupations, and the contract does not limit customer choice, or when the SDWB provides training services through a pay-for-performance contract

When the SWDB provides training services through a pay-for-performance contract.

B. Roles and Responsibilities

The workforce development system established under WIOA emphasizes informed consumer choice, job-driven training, provider performance, career pathways, and continuous improvement. The quality and selection of providers and programs of training services, including Registered Apprenticeship programs and others, are vital to achieving these core principles. The SDWB plays a leadership role in ensuring the success of the eligible training provider system in partnership with the one-stop system and its partners. The approved list of eligible training providers should serve as an essential tool for participants seeking training to identify appropriate providers and relevant information such as cost and program outcomes. The Virgin Islands is designated as a Single State area. Therefore, all authority, duties, and obligations defined in 20 CFR 680 that describes State and Local Workforce Development Boards shall be fulfilled by the Virgin Islands State Workforce Board (SWDB).

The Role of VIDOL, the State Agency: [Ref. - TEGL 8-19]

The VI Department of Labor (VIDOL) is the designated state agency for WIOA administration. This is accomplished by the following:

- Submitting all required reports as detailed in TEGL 3-18
- Managing the Registered State Apprenticeship Program.

- Monitoring training providers for compliance and performance and reporting all issues to the SWDB for future action.
- Performing an initial review of provider applications to ensure that the information submitted is complete and accurate.
- Collecting participant information for purposes of managing individual participant data.

The Role of the State Workforce Development Board (SWDB)- [Ref. Executive Order 490-2019; TEGL 8-19]

The Governor's State Workforce Development Board (SWDB), on behalf of the Governor, must establish eligibility criteria and procedures for initial determination and renewals of eligibility for training providers and training programs to receive funds under WIOA title I-B. The Governor and VIDOL are responsible for managing and disseminating the approved list of eligible training providers. The SDWB must perform the following roles:

- Establishing eligibility procedures and criteria and clarifying State roles and responsibilities.
- Establishing a mechanism for adding Registered Apprenticeship programs to the list and verifying registered status at least every two years.
- Providing an opportunity for interested members of the public to make recommendations and submit comments regarding the eligibility procedure.
- Making training provider eligibility decisions.
- Notifying training providers of the denial of programs at the state level;
- Disseminating the list to the one-stop system, its partner programs, VIDOL, and the public accompanied by credential, cost, performance, and other consumer information for each ETPL training program.
- Evaluating performance data of all training providers during the continued eligibility review;
- Determining if SWDB-established minimum performance levels for eligibility are met;
- Removing programs that do not meet state-established program criteria or performance levels for eligibility and/or are out of compliance with provisions of WIOA; and,
- Establishing an appeals procedure for providers to appeal a denial of eligibility under this section.

The SWDB is the designated state entity in the Territory that must develop the Eligible Training Provider (ETP) List of Requirements and responsibilities. The SWDB has statutorily required duties related to eligible training providers, roles that the Governor assigns SWDB, and additional options for our local area.

To expound further, Section 7 of the Executive Order provides that for the purposes of WIOA, the SWDB shall carry out the functions of a local board. The SWDB must lead efforts to engage with a diverse range of employers and with entities in the region. SWDB must also

identify eligible training providers for adults and dislocated workers. The Governor and SWDB shall negotiate and reach an agreement on local performance accountability measures. Further, SWDB shall coordinate activities with education and training providers, including providers of workforce investment activities, providers of adult education, career and technical education, and local agencies administering plans under Title 1.

The Code of Federal Regulations defines the regulatory obligations regarding ETP requirements and responsibilities in 20 CFR 680.430 – 680.500. [See attachment II of TEGL 8-19.]

The SWDB must ensure that:

- There are sufficient numbers and types of providers of career services and training services (including eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literacy activities) serving the local area and providing the services involved in a manner that maximizes consumer choice and leads to competitive integrated employment for individuals with disabilities;
- The SDWB’s Eligible Training Provider list is disseminated publicly through the local one-stop system and its partner programs;
- Inform the VIDOL in cases where termination of an eligible provider is considered;
- Inform the VIDOL of any changes reported by the training provider that ultimately affect their corresponding approved programs;
- Collecting participant information for purposes of managing individual participant data;
- The SWDB may set additional eligibility criteria, information requirements, and minimum performance levels for local providers beyond what is required by the procedures. SWDB may also provide comments and input into developing the eligible provider procedure through the public comment process. Any additional requirements established by the SWDB will only affect a program’s eligibility and performance level eligibility requirements within the territory.

C. Eligible Provider Entities:

a. Types of Entities

In order to receive WIOA title 1-B funds, eligible providers shall be at least one of the following types of entities:

- 1) Institutions of higher education that provide a program that leads to a recognized postsecondary credential.

Entities requiring approval by the University of the Virgin Islands Board of Trustees under Virgin Islands Code Title 17, Chapters 33 and 35, are considered eligible under this section.

2) Entities that carry out programs registered under the National Apprenticeship Act (29 U.S.C. 50 et seq.)

VIDOL is the State Registered Apprenticeship Agency. Registered Apprenticeship Programs can request to be added to the Eligible Training Provider List during their registration process with the Office of Apprenticeship. Once a Registered Apprenticeship Program has indicated that they desire to be placed on the ETPL, they will automatically be included in the SDWB's ETPL and are not subject to the same application and performance requirements or a period of initial eligibility or initial eligibility procedures. Performance data on Registered Apprenticeship programs will be provided by the VIDOL. Once on the SDWB Eligible Training Provider list, Registered Apprenticeship programs will be included and maintained on the list for as long as the program remains registered under the National Apprenticeship Act or until the program sponsor notifies the SDWB that it no longer wants to be included on the list. Pre-Apprenticeship programs do not have the same automatic ETP status. [20 CFR §680.470; ETA TEGL 41-14 sec. 8(a)]

3) Other public or private providers of a program of training services, which may include joint labor-management organizations and eligible providers of adult education and literacy activities under Title II if such activities are combined with occupational skills training.

This includes Community Based Organizations (CBOs) or private organizations of demonstrated effectiveness that provide training under contract with the SWDB. [ETA TEGL No. 41-14 sec. 4]

4) SWDBs, if they meet the conditions of WIOA sec. 107(g)(1).

b. Training Provider Qualifications

Licensing/Accreditation:

Eligible Training Providers must be licensed by the appropriate Virgin Islands licensing authority, as required both by the Virgin Islands and Federal law. Training providers must be in good standing and compliant with all other state and federal regulatory agencies following:

A. Specific occupations have governing boards that issue licenses, such as the Virgin Islands Department of Health, Virgin Islands Department of Licensing and Consumer Affairs, Virgin Islands Division of Motor Vehicles, and others. Training providers must be licensed by the appropriate governing board to offer training for the occupation.

B. Private post-secondary institutions and training providers must be approved by a federal or Virgin Islands authority such as the Virgin Islands Department of Education.

a. The Virgin Islands Department of Education has approval authority for private/non-profit degree-granting institutions not explicitly exempted by statute or legislative action and

approval authority.

b. Non-profit organizations that do not solely or primarily exist to provide education or training are not covered under this requirement. Please note that the determination that an entity holds such status is exclusively related to its ETPL eligibility and is not an indication that the entity is otherwise exempt from or not subject to the Virgin Islands Department of Education post-secondary requirements. To establish status as a nonprofit organization not primarily or solely operated to provide education or training for ETPL eligibility purposes, an entity must provide:

- i. Internal Revenue Service (IRS) documentation indicating appropriate tax-exempt status.
- ii. The organization's mission statement, articles of incorporation, or other evidence of organizing principles evidencing that the entity's purpose is other than education or training; and
- iii. A signed attestation indicates that most of the entity's operations relate to activities other than education or training.

c. If the Department, after reviewing these submissions, determines that the entity is not eligible for status as a non-profit organization not primarily or solely operated to provide education or training, the entity must be approved or exempted by the University of the Virgin Islands.

Licensed/Accredited Training Providers not eligible to be on the ETPL include but are not limited to:

- C. Training providers that are debarred by any state or the federal government during the debarment period;

Business Requirements:

- A. Training providers must be a legal entity registered to do business in the United States Virgin Islands.
- B. Training providers must have provided training services during all 12 months prior to applying for the ETPL and have a proven track record of students successfully completing the programs. This provision does not apply to Registered Apprenticeship programs.
- C. Training providers must have refund policies specifying when refunds for tuition and other costs associated with the training program will be allowed. Refund policies that indicate that no refunds will be made are not acceptable. Refund policies must be written and published so that students are aware of how to request a refund.

- D. Training providers must have a grievance policy that provides due process for students to file complaints with an organization against faculty, staff, or other employees. Grievance policies must be written and published so that students are aware of how to file a complaint.
- E. Training providers must have a form of general liability insurance. General Liability Insurance is defined as a standard insurance policy issued to a business organization to protect against liability claims for bodily injury (BI) and property damage (PD) arising out of premises, operations, products, and completed operations; and advertising and personal injury (PI) liability. If the nature of the organization is “all other Public or Private Providers of Training,” this certificate must be current and provide “insurance coverage as may be required by any federal or state applicable laws and/or the Workforce arising out the operation of this agreement.” Upon expiration of the certificate, the provider must submit a new certificate to the designated ETPL agency.
- F. Training providers must establish, publish, and disseminate students’ materials, including, but not limited to, official catalogs and other materials. Training providers must provide student and to prospective students with information that is complete and accurate. The information provided must be sufficient to enable prospective students to make rational decisions about enrolling in the school and to allow enrolled students to understand their rights and responsibilities as students in the school.
- G. A training provider’s financial capacity must be appropriate to its scale of operations.

The school must demonstrate, principally from its annual comprehensive financial statements and other financial information (i.e., tax documents), that it has adequate capacity to satisfy its contractual obligation to students, including the capability to provide the programs and services described in its official publications and to meet its financial obligations.

- H. Training providers must comply with nondiscrimination and equal opportunity provisions of all federal and state applicable laws, including but not limited to:
 - 1. Regulations under Section 188 of the Workforce Innovation and Opportunity Act of 2014;
 - 2. 29 CFR 37, Title VI of the Civil Rights Act of 1964;
 - 3. Age Discrimination Act of 1998;
 - 4. Sections 504 and 508 of the Rehabilitation Act of 1973;
 - 5. Title IX of the Education Amendments of 1972;
 - 6. Title II Subpart A of the Americans with Disabilities Act of 1990; and
 - 7. The Genetic Information Non-discrimination Act of 2008.

D. Eligible Program of Training Services:

a. Definition

A program of training services must be delivered in person, online, or in a blended approach that includes one or more courses or a structured regimen that leads to:

- a) A recognized post-secondary credential, secondary school diploma or its equivalent,
- b) Employment, or
- c) Measurable skill gains toward such a credential or employment.

The Employment and Training Administration (ETA) defines a measurable skills gain as one of the following types of gains: 1) Educational Functioning Level (EFL), 2) Secondary Transcript/Report Card, 3) Training Milestone, 4) Skills Progression, and 5) Other Recognized Credential.

b. Apprenticeship Programs

Under WIOA Title I-B, Registered Apprenticeship Programs are considered eligible programs of training services that meet one or more of the criteria defined above. VIDOL is the Registered State Apprenticeship Agency. Once on the SDWB eligible provider list, registered apprenticeship programs will be included and maintained on the list for as long as the program remains registered under the National Apprenticeship Act or until the program sponsor notifies the SDWB that it no longer wants to be included on the list.

Pre-Apprenticeship programs do not have the same automatic ETP status. Pre-Apprenticeship programs are, therefore, subject to the eligibility requirements outlined in this policy.

c. Technology-Based Learning

Requirements

Training providers using technology-based learning, also referred to as distance, online, web-based or computer-based learning, must meet the following requirements:

- A. Training providers offering distance learning programs must be licensed to provide training in the United States Virgin Islands.
- B. Training providers must have a mechanism for student interaction with an instructor or instructors.
- C. Training providers must ensure periodic assessments of each student.
- D. Training providers' policy must describe the responsibilities of each party (training provider, participant) to the distance learning experience.

E. Training providers must have a mechanism to track students' participation in the ETPL Training program.

F. Training providers must comply with any additional requirements determined by the SWDB.

d. Program Quality

The WIOA legislation mandates that providers of education and training meet certain specified performance levels. This performance information is required to ensure customers can effectively evaluate the quality of each training program. The performance and cost information that training providers must submit for their program(s) to be identified as eligible for WIOA funding is essential for ensuring consumers can make informed decisions on types of training that will lead to their individual success.

Factors determining the quality of a training program include:

- the degree to which the training program relates to in-demand industry sectors and occupations;
- length and cost.
- training delivery method including reasonable access to individuals who are employed and individuals with barriers to employment, and the ability to access the training program in rural areas;
- credentials- how they are valued by an employer and how they are associated with specific occupations;
- training program completion rates

- performance as defined by participant outcome information, taking into consideration the
- characteristics of the population served and relevant economic conditions, and information specifying the percentage of such participants who entered unsubsidized employment in an occupation related to the program, to the extent practicable.

E. Criteria for Eligibility:

a. State Criteria - In establishing criteria, SWDB shall take into account each of the following:

- i.** Performance Accountability and Outcomes
- ii.** Ensure access to training services throughout the State (including the use of technology)
- iii.** Dissemination of Performance Outcomes and training information
- iv.** Training must lead to "In-Demand" industry occupations and sectors
- v.** State licensing requirements and licensing status of providers
- vi.** Encouragement of industry-recognized certifications

- vii. Provider's ability to offer a credential
- viii. Quality of training
- ix. Ability to serve individuals with barriers
- x. Other;
 - a. Compliance
 - b. Informed Choice
 - c. Providers must meet the needs of local employers and participants

F. State Solicitation:

SWDB may solicit an invitation to training providers to submit applications to apply for status as approved training providers. This solicitation may be done through a combination of direct mailings, newspaper notices, and other appropriate means. SWDB may also solicit training providers outside the local area, including other states. SWDB will be responsible for ensuring that the training providers have access to the forms for making applications and a list of demand occupations for its area. The application will be reviewed by the ETPL Application Team, consisting of members from the SWDB.

Inquiries: If a student expresses an interest in a provider and the provider is an eligible entity but is not currently on the list, the SWDB shall make an effort to reach out to the provider. An interested Provider currently not on the list can also inquire with the State. Inquiries can be directed to:

State Workforce Development Board at viwdb@dol.vi.gov

G. Publication of List

WIOA requires the dissemination of the statewide list of eligible training providers and accompanying performance and cost information to members of the public. The list will be posted on VIeWS and at One-Stop Centers, and providers will have direct access to the list.

Training providers will appear on the state-wide list after the SWDB verifies their eligibility. As new programs are submitted and approved throughout the year, the state-wide list will be updated on an ongoing basis. If the program is removed from the state-wide list, it will be disqualified for any additional Individual Training Accounts, and the ineligible program will be removed from the state-wide list.

The eligible training provider list must be accompanied by appropriate information to assist participants in choosing employment and training activities. Such information must include the following, disaggregated by local areas served, as applicable:

- Recognized post-secondary credential(s) offered;
- Provider information supplied to meet the SDWB eligibility procedure.
- Performance and cost information aligned with the periods; and,
- Additional information is determined by the SDWB as follows:
 - Program Length, including the number of units such as credits, hours, weeks, or semesters needed to earn the credentials offered.

- Program Service/Location and type
- Class/Faculty Size
- Program Pre-requisites
- Target Occupations
- Program Description, and
- Additional information as deemed appropriate.

I. Eligibility Determination:

A. Initial Eligibility

All providers and programs that were not previously eligible to provide training services under WIOA sec. 122, except for registered apprenticeship programs, must submit the required information to be considered for initial eligibility. The requirements to become an eligible provider of training services apply to all organizations providing WIOA title I-B training to adults and dislocated workers, with the specific exception of Registered Apprenticeship programs.

a. Application Process

Determining ETPL eligibility is a two-tier approach. First, the training provider must be an eligible entity to apply for the ETPL. Second, the training programs offered by the training provider must meet eligibility and performance criteria to be listed on the ETPL.

Under WIOA title I-B, a training provider must provide verifiable program-specific information based on criteria established by SDWB. The application process for initial eligibility on the ETPL is as follows:

1. The Training Provider must apply in ViEWS and submit any required supporting documents via standard mail or electronically.

The provider application will include the following required information:

- a. At least one or more factors for performance [refer to section IV for details on performance information];
 - b. A description of the degree to which the training provider is in partnership with a business. This could include information about the quality and quantity of employer partnerships;
 - c. A description of the accessibility of all training programs pertaining to physical access, programmatic process, and communications. This includes but is not limited to location, delivery of service, and access for individuals with barriers;
 - d. Other documentation as needed [refer to section III for a list of Documentation Needed]
2. An initial review is conducted by the SWDB to determine that the information submitted in the provider application is complete and accurate.
 3. The application is scored by the Board's Operations Committee members using a

standard ETPL Rubric.

Rubric Components include factors determining the quality of a training program as indicated in Section I-A:

- i. Performance Data
- ii. Partnership(s) with Employer(s)
- iii. In-Demand Occupation/Industry
- iv. Credential obtained upon completion
- v. Accessibility of Program

4. Once the Training Provider's application information is verified by SWDB, the Training Provider will be given full access to their VIEWS account by the VIDOL and can then apply for their program(s) to be added to the ETPL.

5. The Training Provider's program applications will be submitted to the State Workforce Development Board for approval.

6. A determination of eligibility letter will be sent to the training provider.

- a. If approved, a WIOA Eligible Training Provider Agreement and Approved Program List Addendum (ETPL Agreement) is sent by the SWDB to the provider within thirty (30) days of the provider application submittal.

Once the contract is signed, the SWDB will disseminate the new program listing on the SDWB's website.

- b. If denied, the training provider has the right to appeal or reapply when ready.

b. Process for Registered Apprenticeship Inclusion on the List

The inclusion process for a Registered Apprenticeship begins once a Registered Apprenticeship program has indicated that they desire to be placed on the ETPL. At that time, the Registered Apprenticeship program must supply the following information to SWDB:

- Occupations included in the RA program
- The name and address of the RA program sponsor
- The name and address of the related technical instruction provider and the location of instruction if different from the sponsor's address
- The method and length of instruction and,
- The number of active apprentices

The Registered Apprenticeship program will automatically be included in the SDWB's Eligible Provider List (ETPL) and are not subject to the same application and performance requirements or a period of initial eligibility or initial eligibility procedures. The State Apprenticeship Agency will provide performance data on Registered Apprenticeship programs. Once on the SDWB's eligible provider list, Registered Apprenticeship programs will be included and maintained for as long as the program remains registered under the National Apprenticeship Act or until the

program sponsor notifies the State that it no longer wants to be included on the list. Pre-Apprenticeship programs do not have the same automatic ETP status.
[20 CFR §680.470; ETA TEGL 41-14 sec. 8(a)]

c. Initial Period of Eligibility for Approved Programs

Initial eligibility will be granted for twelve (12) months once approved by the SWDB. After the initial eligibility period, the training provider is subject to continuing eligibility requirements outlined in section II - B.

B. Continuing Eligibility

Eligible training providers determined to be initially eligible under WIOA title I-B will be subject to the application procedure for continued eligibility when their initial year of eligibility expires.

a. Application Process

Initially, eligible providers of training services must submit a reapplication to the SWDB for each program for which recertification is sought one month before the expiration of the initial period of eligibility. The training provider must confirm all detailed program information listed. To maintain eligibility status, training providers must submit to the SWDB, at such time, in such manner and containing such information as the State may request to adequately prepare the performance information for each training program for which continued eligibility is being sought.

In determining continuing eligibility status, the SDWB takes into consideration the following elements:

1. Changes in Organization/Provider Info:
 - a) Business requirements
 - b) Accreditation/licensure renewals, if needed
 - c) Updated Certificate of Insurance
 - d) Updates and/or changes in a refund or grievance policies, if any;
2. Changes in Program Information:
 - a) Schedule changes
 - b) Curriculum updates
 - c) Match against the In-Demand List
 - d) Credential offered
 - e) Review of business partners that affect the program; and
3. The performance of providers of training services on the performance accountability measures described in WIOA sec 116(b)(2)(A)(i)(I-IV). This includes the timeliness and accuracy of the eligible training provider's performance reports. The SDWB reserves the right to establish minimum performance standards. Until the performance data for all accountability measures are available, the SWDB may take into account alternate factors related to performance for that accountability measure. Once training providers have two years of performance outcomes using the WIOA performance

indicators specified in section 116, the SWDB will take them into account.

Other factors taken into consideration when determining eligibility include:

1. Specific economic, geographic, and demographic factors in the local area for which providers are seeking continued eligibility; and
2. Characteristics of the populations served, including demonstrated difficulties in serving these populations.

Upon completion of the factors above, the SWDB will determine if the program maintains eligibility. A continuing eligibility determination letter will be sent to the training provider. Continued eligibility status will be confirmed through the SWDB's Operations Committee.

A continuing eligibility review must be conducted at least once every two years from the first continuing eligibility review.

b. Continuing Eligibility Review for Registered Apprenticeship Programs

Registered Apprenticeship Programs who have initially indicated their desire to be placed on the ETPL are not subject to the same continuing eligibility and performance requirements of the State's ETPL policy. The biennial review of the provider eligibility will include verification of the registration status of registered apprenticeship programs and removal of any registered apprenticeship programs as described in 20 CFR sec 680.470. Performance data on Registered Apprenticeship programs will be provided consistent with other members of the ETPL. Once on the SDWB eligible provider list, Registered Apprenticeship Programs will be included and maintained on the list for as long as the program remains registered under the National Apprenticeship Act or until the program sponsor notifies the State that it no longer wants to be included on the list. Pre-Apprenticeship programs do not have the same automatic ETP status. [20 CFR §680.470]

C. Provision [Act Sec. 122(b)(4)(E)]

The provider shall provide the information described in this policy to the SWDB in a manner that will permit the SWDB to decide on the inclusion of the provider on the list of eligible providers.

III. Documentation Needed

The provider must meet all SWDB criteria in section I of this document. The information requirements are established to require that a provider of training services submit appropriate, accurate, and timely information to the SDWB, to enable the State partners to disseminate information that assists participants in choosing providers.

Approval or Exemption Letter from Oversight Agency

Pursuant to WIOA sec 122(b)(1), the state licensing and accreditation status of providers is a required state criterion in determining an eligible entity. An approval or exemption letter from the oversight agency must be supplied at the time of application. For example, A private post-

secondary institution must be approved or exempted by the Department of Education Commissioner.

Certificate of Liability of Insurance.

General Liability insurance is defined as a standard insurance policy issued to a business organization to protect against liability claims for bodily injury (BI) and property damage (PD) arising out of premises, operations, products, and completed operations; and advertising and personal injury (PI) liability. If the nature of the organization is “all other Public or Private Providers of Training,” this certificate must be current and provide “insurance coverage as may be required by any federal or state applicable laws and/or the Workforce arising out of the operation of this agreement.” Upon expiration of the certificate, the provider must submit a new certificate.

Refund Policy

A refund policy must establish general guidelines, document circumstances in which a refund will be given for tuition, fees, or other costs, and clearly define the refund process for over-invoicing or for services not provided.

Grievance Policy

A training provider must have an established grievance policy to provide a process for the effective management and resolution of concerns, disagreements, or complaints arising out of premises, operations, products, and completed operations.

Equal Opportunity Officer (EEO) Duties, Roles and Responsibilities Under WIOA:

An Equal Opportunity Officer is responsible for coordinating a recipient's obligations under 29 CFR Part 38.28

Those responsibilities include, but are not limited to:

- “Serving as the recipient's liaison with Civil Rights Center
- Monitoring and investigating the recipient's activities and the activities of the entities that receive WIOA Title I-financial assistance from the recipient to make sure that the recipient and its sub-recipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Title I and this part, which includes monitoring the collection of data required in this part to ensure compliance with the nondiscrimination and equal opportunity requirements of WIOA and 29 CFR 38;
- Reviewing the recipient's written policies to make sure that those policies are nondiscriminatory.
 - Developing and publishing the recipient's procedures for processing discrimination complaints under 29 CFR 38.72 through 29 CFR 38.73, including tracking the discrimination complaints filed against the recipient, developing procedures for investigating and resolving discrimination

complaints filed against the recipient, making sure that those procedures are followed, and making available to the public, in appropriate languages and formats, the procedures for filing a complaint;

- Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with §38.40 and how an individual may file a complaint consistent with §38.69;
- Undergoing training (at the recipient's expense) to maintain the competency of the EO Officer and staff, as required by the Director;
- If applicable, overseeing the development and implementation of the recipient's Nondiscrimination Plan under §38.54.

Published Course Catalog or Program Brochure

The catalog and/or brochure **MUST** be available to the public and prospective students and must include the following:

- All fees required to be paid by students, including tuition, required fees, books, supplies, activities and all other program costs. Providers must ensure that the cost of training to
- WIOA students do not differ from the training cost charged to non-WIOA students;
- Educational program details and curricula;
- Course cancellation policies.
- All other student policies and procedures promulgated by the school, including those
- required by state or federal regulations.

The catalog and/or brochure must be submitted electronically or in hard copy. The student policies can be submitted separately from the catalog and/or brochure but must be an official document available to the public and prospective students.

W-9 Form

A W-9 form must be submitted at the time of initial application and every two years thereafter to file the Taxpayer Identification Number and Certification for tax purposes.

IV. Performance

A. Required Information

The SWDB will collect performance data from eligible training providers for all students as well

as WIOA participants in ETPL-eligible training programs annually and/or upon request. Reportable elements include:

- the number of individuals served;
- number exited from program (includes students who completed, withdrew or transferred out of the program);
- number who completed the program;
- number of exiters employed in the 2nd quarter after exit;
- number of exiters employed in the 4th quarter after exit;
- median earnings of exiters in the 2nd quarter after exit;
- number of exiters who attained a credential during participation or within one year after exit;
- average earnings in the 2nd quarter after exit; and
- average earnings in the 4th quarter after exit.

This information will be self-reported in VIeWS by the training provider in the aggregate. As part of its ETPL Monitoring process, the U.S. Department of Labor and Training will randomly audit the information reported by select providers to ensure it is accurate and that the methodology to collect, compile, and report this information is reasonable, secure, and effective. Training Providers will be monitored on an annual basis.

B. Insufficient Performance Information

Of those entities applying for eligibility, if the training provider does not have the required performance data, it must 1) show good cause and 2) provide alternate information demonstrating compliance with eligibility criteria. “Good cause” should include:

1. The training program is new, and data on past performance is not available;
2. Only partial performance data is available;
3. Collection of data will cause excessive costs and/or hardship for the training provider during the initial eligibility; and/or
4. Other detailed circumstances that may cause data to be unavailable.

If the required and alternate information cannot be provided, SWDB will provide technical assistance to allow the provider to demonstrate its ability to meet eligibility criteria. SWDB will assist the provider in developing a plan of action with an appropriate timeline to be determined individually. If the provider is not responsive or unable to meet the requirements set forth by the agreement, the provider may be found ineligible.

Once a Provider is deemed eligible and added to the ETPL List, providers must submit regular performance information by 20 CFR. 677.230, 680.90 and TEGL 3-18.

C. Alternate Performance Information

Until the performance data for each accountability measure is available, the SWDB may consider alternate factors related to performance for that accountability measure if the information is substantially similar to the information otherwise required. In considering alternate factors related to performance, the SWDB may set minimum performance criteria, use existing available data, or develop other proxies as appropriate. Once training providers have two years of performance outcomes using the WIOA performance indicators specified in section 116, the providers will be expected to supply the originally required information.

Supplemental data may include documentation on self-employment and self-reported earnings, a copy of a W-2 form or a pay stub that documents employment during the period in the measure.

V. Program Costs

An eligible training provider must make available to the prospective students its schedules of tuition and fees. The cost of the training to WIOA participants must not exceed the cost charged to any other student in the program. All costs necessary for successful completion of a program must be clearly stated. A breakdown of cost must be identified for publication on the ETPL. A breakdown may include the following:

- Tuition
- Fees
- Books
- Licensing cost
- Certificate fees
- Graduation fees
- Uniforms
- Tools
- Registration fees
- Supplies

VI. Notice of Ineligibility, Suspension, or Termination

A. Initial Eligibility Denials

A training provider or program may be denied initial eligibility for the following reasons:

1. The application is not complete, or information was not provided in a timely manner;
2. The training provider does not meet the WIOA definition of an eligible training entity;
3. The training program does not meet the WIOA definition of eligible training services.
4. The training program does not result in a recognized credential;
5. Performance data is not included in the application.
6. The training program does not support in-demand occupations and/or sectors identified through labor market analysis;
7. The training provider is not in compliance with the WIOA statute, regulations, or any agreement executed under WIOA;

8. The SWDB determines that the training provider intentionally supplied inaccurate information.

Reapplication

When a training provider or program is denied for any reason other than lack of documentation or information, the provider must wait six months to reapply.

Denial Notice

Within thirty (30) days after the SDWB determines that a training provider's application does not meet the eligibility criteria, the SWDB shall issue a denial notice to the training provider.

The notice shall be emailed or mailed to the training provider at the address listed on the application and to the attention of the contact person identified on the application. The notice shall clearly:

- a. Display the "date mailed",
- b. Identify the program that was denied or terminated;
- c. SDWB specific reason(s) for the action; and
- d. SDWB the training provider has the right to appeal to within 30 calendar days of the date the notice is mailed.

B. Suspension/Removal

a. Removal of Training Programs

A training program may be removed from the ETPL for the following reasons:

1. The SDWB determines that the training provider supplied inaccurate information;
2. The training program no longer meets the WIOA definition of occupational skills training;
3. The program does not meet minimum performance standards once established. If there are no students enrolled in the training program during the past year, there will be no performance data to review for continued eligibility. The SDWB must examine the demand for the related occupation to determine if there is still a demand for it and decide whether to keep the program on the ETPL for another year.

b. Removal of Training Providers

A training provider may be removed from the ETPL for the following reasons:

- 1) Intentionally supplying inaccurate or false information;
- 2) Substantially violating a provision of title I of WIOA or its implementing regulations;
- 3) Failure to meet required performance outcomes;
- 4) Failure to abide by the equal opportunity and nondiscrimination requirements under WIOA Section 188;
- 5) Failure to comply with monitoring and audits;
- 6) Failure to maintain required licenses and accreditation requirements;
- 7) Failure to comply with all applicable provisions in the ETPL contract; or

8) Other just cause.

c. Notification and Termination Letter

Within thirty (30) days after the SDWB determines that a training provider is in violation of any of the reasons indicated above a notice of violation or finding shall be issued by the SDWB requiring the development of a corrective action plan. The letter should include what the violation or finding is, an invitation to develop a corrective action plan, and a specific timeframe of 14 days to respond to the notification. If the training provider fails to respond to the letter, a termination letter will then be issued.

The termination notice shall be mailed to the training provider at the address listed on the application and to the attention of the contact person identified on the application.

The notice shall clearly:

- a. Display the “date mailed”,
- b. Identify the violation or finding;
- c. SDWB specific reason(s) for the action; and
- d. SDWB the training provider has the right to appeal within thirty (30) calendar days of the date the notice is mailed. When a training program is removed from the SDWB.

Please note once a Provider is deemed eligible and added to the ETPL List, providers are required to submit regular performance information following 20 CFR 430 SDWB ETPL; WIOA participants currently enrolled in the program may complete their training as outlined in their WIOA Individual Employment Plan unless the program or provider has lost state licensing, certification, or authorization to operate by the appropriate state oversight agency.

C. Corrective Action

a. Purpose of Corrective Action Plan

The SDWB Provider must develop a corrective action plan if the provider is found in violation of their contract or if the provider is requesting technical assistance to become compliant.

b. Prior to Plan Development

If the provider is found in violation of the contract, the SWDB must identify the finding and how it was acquired. Examples include but are not limited to SWDB’s monitoring report, SDWB’s compliance and monitoring report, continuing eligibility review, and information reported through an anonymous tip or random review; i.e., secret shopper or other means that provides evidence of potential non-compliance with ETPL contract provisions or ETPL policy.

Identify which law or provision is being violated. Gather supporting documents to determine if the finding is an allegation or a factual finding. This will determine whether the provider can

continue to receive referrals during the CAP process or not.

c. Notification Letter

The SDWB sends a letter via mail notifying the Training Provider of the finding. The letter should include what the violation or allegation is, an invitation to develop a corrective action plan, and a specific timeframe to respond to the notification. If the training provider chooses not to respond to the letter, they are confirming their decision to withdraw participation from the ETPL.

d. Development of CAP

The training provider, with assistance from the SDWB, must develop a corrective action plan (CAP). The CAP will serve as a reapplication and should contain the following:

- Details of discussion; date, time, method of communication (phone, meeting, etc.), persons involved in discussion, and any other relevant details;
- Description of circumstances;
- Description of steps that will be taken to rectify the situation, including procedural changes that prevent reoccurrence;
- Appropriate timeframe for completion/resolution ▪ Depending on the severity of the issue timeframes may vary
- An evaluation of progress must be periodically conducted

C. Repayment of Program Funds

A provider of training services whose eligibility is terminated due to the aforementioned termination causes shall be liable for the repayment of funds of all adult, dislocated worker, and youth funds received under Title I-B of WIOA during the period of non-compliance. [Ref. Act Sec 122(f)(1)(C)] No repayment funds should be collected from the training provider until the opportunity to appeal is over, which is 90 days from the date of the initial denial notice.

D. Appeal Process

Following issuance of a denial of eligibility, determination of suspension, determination of eligibility for status as a nonprofit organization not primarily operated to provide education or training, or termination of eligibility - the training provider will have 30 days in which to submit an appeal to SWDB. Within 30 days of the receipt of the appeal, the training provider will be notified of the date, time, and place where a due process hearing will be conducted. After that hearing a decision will be issued within 30 days. All appeals must be forwarded, in writing, to the following email address:

Workforce Development Board at viwdb@dol.vi.gov

VII. Opportunity to Submit Comments [Ref. – Act Sec. 122(e)]

In establishing criteria information requirements, procedures, and the list of eligible providers described in this policy, the SWDB provided an opportunity beginning November 10, 2022 and ending January 15, 2022 for interested members of the public to make recommendations and

submit comments regarding such criteria, information requirements, procedures, and list.

Attachment 1

Definitions:

Credential = [ETA TEGL No. 15-10, Credential Resource Guide attachment]

The term *credential* refers to a verification of qualification or competence issued to an individual by a third party with the relevant authority or jurisdiction to issue such credentials (such as an accredited educational institution, an industry-recognized association, or an occupational association or professional society).

- Commonly used educational credentials include:

1. Educational diplomas, certificates, and degrees;
2. Registered apprenticeship certificates;
3. Occupational licenses (typically awarded by state government agencies);
4. Personnel certifications from industry or professional associations; and
5. Other skill certificates for specific skill sets or competencies within one or more industries or occupations (e.g. writing, leadership, etc.).

Completed = Attended all weeks of training and met all the requirements for a degree or certificate according to the institution's catalog.

Completer/Credential Attained = A student "completer" (see preceding definition) who receives a degree, diploma, certificate, or other format industry recognized credential. In order to be considered a "completer/credential attained", the degree/award or license must actually be conferred.

[US Department of Education, Institute of Education Sciences, NCES, IPEDS Glossary;
<http://nces.ed.gov/ipeds/glossary>]

Exited = A student who leaves the program of study having completed or otherwise.